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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2010- 247

11 **CHRISTIANNA PUCCINELLI McCARTY**  
12 1020 Tuolumne Street  
13 Vallejo, CA 94590

**A C C U S A T I O N**

14 **Registered Nurse License No. 602482**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
20 of Consumer Affairs.

21 2. On or about July 23, 2002, the Board of Registered Nursing issued Registered Nurse  
22 License Number 602482 to Christianna Puccinelli McCarty (Respondent). The Registered Nurse  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on October 31, 2009, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code unless otherwise indicated.

1           4.     Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,  
2     that the Board may discipline any licensee, including a licensee holding a temporary or an  
3     inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
4     Nursing Practice Act.

5           5.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
6     shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
7     licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the  
8     Code, the Board may renew an expired license at any time within eight years after the expiration.

9                               **STATUTORY AND REGULATORY PROVISIONS**

10          6.     Section 490(a) of the Code states:

11           (a) In addition to any other action that a board is permitted to take against a licensee, a  
12     board may suspend or revoke a license on the ground that the licensee has been convicted of a  
13     crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
14     or profession for which the license was issued.

15          7.     Section 2761 of the Code states, in pertinent part:

16           The board may take disciplinary action against a certified or licensed nurse or deny an  
17     application for a certificate or license for any of the following:

18           (a) Unprofessional conduct . . . .

19                               . . . .  
20           (f) Conviction of a felony or of any offense substantially related to the qualifications,  
21     functions, and duties of a registered nurse, in which event the record of the conviction shall be  
22     conclusive evidence thereof.

23                               . . . .  
24          8.     California Code of Regulations, title 16, section 1444, states:

25           A conviction or act shall be considered to be substantially related to the qualifications,  
26     functions or duties of a registered nurse if to a substantial degree it evidences the present or  
27     potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
28     safety, or welfare. Such convictions or acts shall include but not be limited to the following:

1 (a) Assaultive or abusive conduct including, but not limited to, those violations listed in  
2 subdivision (d) of Penal Code Section 11160.

3 (b) Failure to comply with any mandatory reporting requirements.

4 (c) Theft, dishonesty, fraud, or deceit.

5 (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the  
6 Penal Code.

### 7 **COST RECOVERY**

8 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licentiate found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case.

### 12 **FIRST CAUSE FOR DISCIPLINE**

13 (Criminal Conviction)

14 10. Respondent is subject to disciplinary action under sections 490 and 2761(f) of the  
15 Code in that she has been convicted of a crime substantially related to the qualifications,  
16 functions, and duties of a registered nurse. The circumstances are as follows:

17 11. On or about July 28, 2009, in Napa Superior Court case number CR14138,  
18 Respondent was convicted of having violated California Penal Code section 245(a)(1) (assault  
19 with a firearm), a felony.

20 12. Respondent's prison sentence of five years was suspended, and Respondent was  
21 ordered, as a condition of probation, to enroll in and complete the Delancey Street residential  
22 drug treatment program.

### 23 **SECOND CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct)

25 13. Respondent is subject to disciplinary action under sections 2761(a) of the Code and  
26 under California Code of Regulations, Title 16, section 1444, in that she committed  
27 unprofessional conduct substantially related to the qualifications, functions or duties of a  
28 registered nurse, as follows:

14. On or about July 17, 2008, in Napa County, California, Respondent committed an assault with a firearm, a crime listed in California Penal Code section 11160(d)(13).

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 602482, issued to Christianna Puccinelli McCarty;

2. Ordering Christianna Puccinelli McCarty to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

11/4/09

*Louise R. Bailey*  
LOUISE R. BAILEY, M.Ed., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*